

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Carol Baker individually, and as Personal
Representative of the Estate of Robert
Baker Sr., Deceased,

Plaintiff,

v.

Big Ox Energy, LLC,
and
Big Ox Energy-Siouxland, LLC,

Defendants.

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CASE NO. _____

NOTICE OF REMOVAL OF ACTION

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants, Big Ox Energy LLC and Big Ox Energy-Siouxland, LLC (the “Big Ox Defendants”), hereby remove to the United States District Court for the District of Nebraska the above-styled action, currently pending as Case No. CI 18-176 in the District Court, Dakota County, Nebraska (the “State Court Action”), and as grounds for removal, states as follows:

1. Plaintiffs Carol Baker individually, and as Personal Representative of the Estate of Robert Baker Sr., deceased, filed its Complaint (the “Complaint”) in the State Court Action on or about September, 2018. A true and correct copy of the Complaint is attached hereto as Exhibit A.

2. The Big Ox Defendants have not yet filed an answer in the State Court Action. A true and correct copy of the State Court Docket Sheet is attached hereto as Exhibit B.

3. Big Ox Energy LLC and Big Ox Siouxland LLC are both Wisconsin Limited Liability Corporations with their principal place of business in Green Bay, Wisconsin.

4. Plaintiff Carol Baker is a resident of South Sioux City, Nebraska.

5. On or about September 20, 2018, Plaintiff served The Big Ox Defendants with a copy of the Complaint in the State Court Action. A true and correct copy of the Complaint and receipt of service are attached hereto as Exhibit C. These constitute the only “process, pleadings and orders” in the State Court Action of which Defendants are aware. *See* 28 U.S.C. § 1446(a).

6. The Complaint alleges that The Big Ox Defendants should be held liable for the

torts of negligence, private nuisance and strict liability. The Complaint itself seeks relief of monetary damages in a total amount “no less than \$80,000” on one claim for property damages, “more than \$20,000” of out-of-pocket expenses on another claim and other unspecified damages.”

7. This Court has original jurisdiction over the State Court Action under federal diversity jurisdiction, 28 U.S.C. § 1332, which provides, in relevant part, that:

[t]he district court shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between –

(1) citizens of different States.

28 U.S.C. § 1332(a)(1).

8. Plaintiff is diverse from The Big Ox Defendants in that Plaintiff is a citizen of Nebraska, while the Defendants are Wisconsin limited liability corporations with their principal places of business in Wisconsin.

9. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

10. Defendants’ removal of the State Court Action is timely. A defendant seeking removal of an action initiated in a state court must file a notice of removal with the district court within thirty days of service of the complaint upon the defendant. *See* 28 U.S.C. § 1446(b); *see also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 352-53, 119 S. Ct. 1322, 143 L. Ed. 2d 448 (1999). As noted in Paragraph 5 above, Plaintiff served Defendants on September 20, 2018, and this Notice of Removal is being filed within thirty days from that date, making removal timely. *See* 28 U.S.C. 1446(b).

11. A copy of this Notice of Removal is being filed with the Clerk of the District Court of Dakota County, Nebraska, and is being served on Plaintiff. *See* 28 U.S.C. §§ 1446(a) & (d). The District Court of Dakota County, Nebraska is located within this District.

WHEREFORE, Defendants, Big Ox Energy LLC and Big Ox Energy Siouxland, LLC, hereby remove this case from the District Court of Dakota County, Nebraska where it is now

pending, to this Court, and respectfully request that this Court assume full jurisdiction of this Action, and henceforth place this action upon the docket of the Court for further proceedings.

BIG OX ENERGY, LLC and BIG OX ENERGY
SIOUXLAND, LLC, Defendants,

BY: s/ Dan H. Ketcham
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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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